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Attorney's Docket No. 019519-398

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)	
Kazuaki YOSHIDA)	Group Art Unit: 1752
Application No.: 10/621,360)	Examiner: Hoa Van Le
Filed: July 18, 2003)	Confirmation No.: 2561
For: CONCENTRATED COMPOSITION)	
OF BLIX SOLUTION FOR SILVER)	
HALIDE COLOR PHOTOGRAPHIC)	
PHOTOSENSITIVE MATERIAL)	

RESPONSE TO QUAYLE ACTION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Quayle Action dated October 14, 2004, Applicant respectfully submits that the Examiner's refusal to rejoin dependent method claims 6-12 is contrary to the explicit provisions set forth in MPEP §821.04. As clearly stated in this section of the MPEP:

Where product and process claims drawn to independent and distinct inventions are presented in the same application, applicant may be called upon under 35 U.S.C. §121 to elect claims to either the product or process. See MPEP §806.05(f) and §806.05(h). The claims to the nonelected invention will be withdrawn from further consideration under 37 C.F.R. §1.142. See MPEP §809.02(c) and §821 through §821.03. However, if applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined.

Indeed, even if there are no process claims originally in the application, if they are subsequently added in a timely manner, they must be considered as is evident from the further quote from this section of the MPEP which reads as follows:

Process claims which depend from or otherwise include all the limitations of the patentable product will be entered as a matter of right if the amendment is presented prior to final rejection or allowance.

In the present situation, the process claims were originally present in the application and all are directly or indirectly dependent from allowed product claim 1 (the concentrated blix solution composition). Therefore, in accordance with the stated rejoinder provisions, the process claims must be rejoined pursuant to Applicant's request set forth in the response dated September 27, 2004. It is noted the rejoinder would also be consistent with the Examiner's actions in allowing commonly assigned application Serial No. 10/622,534.

As an additional matter, a computer generated translation of Japanese Patent Document No. 11-288068 was submitted in an Information Disclosure Statement also filed on September 27, 2004, and acknowledged in the Quayle Action. While the translation of the description is believed to provide an understanding of the document, provided herewith is a translation of the Tables from the document for the Examiner's convenience and consideration and to complete the record.

The Examiner is respectfully requested to rejoin claims 6-12 and to formally allow the present application.

Should the Examiner wish to discuss any aspect of the present application, he is invited to contact the undersigned attorney at the number provided below.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

Date: November 12, 2004

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JP-A-11-288068

(Table 1)

Type of Additive	RD 17643	RD 18716	RD 307105
1. Chemical sensitizer	P. 23	P. 648, right column	P. 866
2. Sensitivity Enhancer		P. 648, right column	
3. Spectral sensitizer, Super-sensitizer	PP. 23 to 24	P. 648, right column to P. 649, right column	Pp. 866 to 868
4. Whitening agent	P. 24	P. 647, right column	P. 868
5. Light absorbing agent, Filter dye, UV-absorber	PP. 25 to 26	P. 649, right column to P. 650, left column	P. 873
6. Binder	P. 26	p. 651, left column	PP. 873 to 874
7. Plasticizer, Lubricant	P. 27	P. 650, right column	P. 876
8. Coating aid, Surfactant	PP. 26 to 27	P. 650, right column	PP. 875 to 876
9. Antistatic agent	P. 27	P. 650, right column	PP. 876 to 877
10. Matting agent			PP. 878 to 879

(Table 2)

Increase in visual density			Color developer composition					
			A	B	C	D	E	F
		Density	1.133	1.152	1.152	1.183	1.298	1.350
Bleaching agent composition	a	1.135	0.050	0.032	0.032	0.028	0.032	0.089
	b	1.152	0.045	0.009	0.009	0.005	0.005	0.080
	c	1.153	0.044	0.009	0.008	0.005	0.006	0.078
	d	1.185	0.045	0.007	0.007	0.003	0.004	0.066
	e	1.295	0.055	0.012	0.013	0.007	0.007	0.088
	f	1.340	0.085	0.072	0.072	0.071	0.078	0.092

The present invention is within the above frame

(Table 3)

Vessel No.	Average Thickness (mm)	Density at Unexposed Area (D_{min_D})	Maximum Density (D_{max_D})	Note
1	0.2	0.019	2.10	Example of the present invention
2	0.3	0.009	2.10	Preferred embodiment of the present invention
3	0.5	0.008	2.10	Same as above
4	0.7	0.008	2.10	Same as above
5	0.9	0.008	2.05	Example of the present invention

(Table 4)

Sample No.	<1>	<2>	<3>	<4>	<5>
Potassium acetate (g/liter)	0	16	55	159	237
Specific gravity	1.138	1.150	1.180	1.260	1.320
Residual ratio (%)	73	90	92	89	72
State of fluid	Brown (dense)	Pale yellow (transparent)	Pale yellow (transparent)	Pale yellow (transparent)	Foreign, oily flottage
Note	Comparative Example	The present invention	The present invention	The present invention	Comparative Example

(Table 5)

Sample No.	Additive		Temporal stability	
	Compound	(g/liter)	Residual ratio of preservative (%)	Background density increment (ΔD_D)
<6>	-	-	85	0.01
<7>	Triisopropanolamine	(30)	91	0.003
<8>	Diethanolamine	(30)	89	0.005
<9>	Polyethylene glycol, Mol. Wt. = 100	(30)	87	0.007

<10>	Polyethylene glycol, Mol. Wt. = 400	(30)	89	0.005
<11>	Polyethylene glycol, Mol. Wt. = 1500	(30)	88	0.008
<12>	Triisopropanolamine, Polyethylene glycol Mol. Wt. = 400	(30)	92	0.001

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